

SENATE BILL No. 535

DIGEST OF INTRODUCED BILL

Citations Affected: IC 2-3.5-2; IC 5-10-5.5; IC 5-10.2; IC 5-10.3; IC 5-10.4; IC 5-10.5; IC 33-38; IC 33-39-7-3; IC 36-8-8-4.

Synopsis: Indiana public retirement system. Establishes the Indiana public retirement system (system) to administer and manage the following: (1) the public employees' retirement fund (PERF); (2) the teachers' retirement fund (TRF); (3) the judges' retirement fund; (4) the prosecuting attorneys retirement fund; (5) the state excise police, gaming agent, gaming control officer, and conservation enforcement officers' retirement fund; (6) the 1977 police officers' and firefighters' pension and disability fund; (7) the legislators' retirement system; (8) the pension relief fund; (9) the special death benefit fund; and (10) the state employees' death benefit fund. Creates a seven member board of trustees for the system (board) consisting of six members appointed by the governor and the director of the budget agency (or designee) serving as an ex officio voting member. Provides that the board's powers and duties are the combined powers and duties of the PERF and TRF boards. Provides that each retirement fund continues as a separate fund managed by the board. Provides for a director of the system who is appointed by and serves at the pleasure of the board. Eliminates the treasurer of state as the treasurer of PERF and reassigns the treasurer's duties to the board and director of the system. Makes conforming and technical corrections. Repeals provisions that establish the PERF and TRF boards and the treasurer of state's role as PERF treasurer.

Effective: July 1, 2009.

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January 15, 2009, read first time and referred to Committee on Pensions and Labor.

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First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

SENATE BILL No. 535

A BILL FOR AN ACT to amend the Indiana Code concerning pensions.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 2-3.5-2-2.7 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2009]: **Sec. 2.7. "Board" refers to the board of trustees of the**
4 **Indiana public retirement system established by IC 5-10.5-3-1.**

5 SECTION 2. IC 5-10-5.5-3 IS AMENDED TO READ AS
6 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) The management
7 administration of the retirement plan created by this chapter is hereby
8 vested in the board. ~~of trustees of the public employees' retirement~~
9 ~~fund.~~

10 (b) Records of individual participants in the retirement plan created
11 by this chapter and participants' information are confidential, except for
12 the name and years of service of a retirement plan participant.

13 SECTION 3. IC 5-10-5.5-7.5, AS ADDED BY P.L.180-2007,
14 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
15 JULY 1, 2009]: Sec. 7.5. (a) As used in this section, "board" refers to
16 the board of trustees of the ~~public employees' retirement fund~~
17 ~~established by IC 5-10.3-3-1.~~ **Indiana public retirement system**



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1 **established by IC 5-10.5-3-1.**

2 (b) As used in this section, "public retirement fund" refers
3 collectively to:

- 4 (1) the public employees' retirement fund (IC 5-10.3);
5 (2) the Indiana state teachers' retirement fund (IC 5-10.4);
6 (3) the state police pension trust (IC 10-12); and
7 (4) the 1977 police officers' and firefighters' pension and
8 disability fund (IC 36-8-8).

9 (c) Subject to this section, a participant may purchase service credit
10 for the participant's prior service in a position covered by a public
11 retirement fund.

12 (d) To purchase the service credit described in subsection (c), a
13 participant must meet the following requirements:

- 14 (1) The participant has at least one (1) year of creditable service
15 in the retirement plan created by this chapter.
16 (2) The participant has not attained vested status in and is not an
17 active participant in the public retirement fund from which the
18 participant is purchasing the service credit.
19 (3) Before the participant retires, the participant makes
20 contributions to the retirement plan created by this chapter as
21 follows:

22 (A) Contributions that are equal to the product of the
23 following:

- 24 (i) The participant's salary at the time the participant actually
25 makes a contribution for the service credit.
26 (ii) A rate, determined by the actuary for the retirement plan
27 created by this chapter, based on the age of the participant
28 at the time the participant actually makes a contribution for
29 service credit and computed to result in a contribution
30 amount that approximates the actuarial present value of the
31 benefit attributable to the service credit purchased.
32 (iii) The number of years of service credit the participant
33 intends to purchase.

34 (B) Contributions for any accrued interest, at a rate determined
35 by the actuary for the retirement plan created by this chapter,
36 for the period from the participant's initial participation in the
37 retirement plan created by this chapter to the date payment is
38 made by the participant.

39 (e) At the request of the participant purchasing service credit under
40 this section, the amount a participant is required to contribute under
41 subsection (d)(3) may be reduced by a trustee to trustee transfer from
42 a public retirement fund in which the participant has an account that

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contains amounts attributable to member contributions, **including contributions made on behalf of a member** (plus any credited earnings) to the retirement plan created by this chapter. The participant may direct the transfer of an amount only to the extent necessary to fund the service purchase under subsection (d)(3). The participant shall complete any forms required by the public retirement fund from which the participant is requesting a transfer or the retirement plan created by this chapter before the transfer is made.

(f) At least ten (10) years of service in the retirement plan created by this chapter is required before a participant may receive a benefit based on service credit purchased under this section.

(g) A participant who:

(1) terminates employment before satisfying the eligibility requirements necessary to receive an annual retirement allowance; or

(2) receives an annual retirement allowance for the same service from another tax supported governmental retirement plan other than under the federal Social Security Act;

may withdraw the purchase amount plus accumulated interest after submitting a properly completed application for a refund to the retirement plan created by this chapter.

(h) The following may apply to the purchase of service credit under this section:

(1) The board may allow a participant to make periodic payments of the contributions required for the purchase of the service credit. The board shall determine the length of the period during which the payments must be made.

(2) The board may deny an application for the purchase of service credit if the purchase would exceed the limitations under Section 415 of the Internal Revenue Code.

(3) A participant may not claim the service credit for purposes of determining eligibility for a benefit or computing benefits unless the participant has made all payments required for the purchase of the service credit.

(i) To the extent permitted by the Internal Revenue Code and applicable regulations, the retirement plan created by this chapter may accept, on behalf of a participant who is purchasing permissive service credit under this chapter, a rollover of a distribution from any of the following:

(1) A qualified plan described in Section 401(a) or Section 403(a) of the Internal Revenue Code.

(2) An annuity contract or account described in Section 403(b) of

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the Internal Revenue Code.

(3) An eligible plan that is maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state under Section 457(b) of the Internal Revenue Code.

(4) An individual retirement account or annuity described in Section 408(a) or Section 408(b) of the Internal Revenue Code.

(j) To the extent permitted by the Internal Revenue Code and applicable regulations, the retirement plan created by this chapter may accept, on behalf of a participant who is purchasing permissive service credit under this chapter, a trustee to trustee transfer from any of the following:

(1) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(2) An eligible deferred compensation plan under Section 457(b) of the Internal Revenue Code.

SECTION 4. IC 5-10.2-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. ~~Board:~~ "Board" as used in this article means the board of trustees of the ~~Indiana state teachers' retirement fund and the board of trustees of the public employees' retirement fund.~~ **Indiana public retirement system established by IC 5-10.5-3-1.**

SECTION 5. IC 5-10.2-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. ~~Scope; Purpose:~~ (a) This article applies to the Indiana state teachers' retirement fund and the public employees' retirement fund. Each retirement fund covered by this article is a separate retirement fund managed by ~~its~~ **the** board under ~~its the fund's~~ retirement fund law. ~~Each~~ **The** board shall make and publish regulations which are appropriate to the efficient administration of this article. The obligations of the state and political subdivisions for benefit payments are specified in each retirement fund law.

(b) Each fund is an independent body corporate and politic. A fund is not a department or agency of the state but is an independent instrumentality exercising essential government functions.

(c) For purposes of IC 34-13-2, IC 34-13-3, and IC 34-13-4, each board, each fund, and all employees of each board or fund are public employees (as defined in IC 34-6-2-38). ~~All employees of each board or fund employed within a classification covered by a labor agreement to which the state is a party shall continue to remain subject to the terms and conditions of that agreement and any successor labor agreements entered into by the state.~~

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(c) The benefits specified in this article and the benefits from the Social Security Act provide the retirement, disability, and survivor benefits for public employees and teachers. However, this article does not prohibit a political subdivision from establishing and providing before January 1, 1995, and continuing to provide after January 1, 1995, retirement, disability, and survivor benefits for the public employees of the political subdivision independent of this article if the political subdivision took action before January 1, 1995, and was not a participant in the public employees' retirement fund on January 1, 1995, under this article or IC 5-10.3.

SECTION 6. IC 5-10.2-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) The board of the public employees' retirement fund shall maintain the following separate accounts **in the public employees' retirement fund**:

(1) The annuity savings account.

(2) The retirement allowance account.

(b) The board of the Indiana state teachers' retirement fund shall maintain the following two (2) separate accounts **in the Indiana state teachers' retirement fund**:

(1) The pre-1996 account.

(2) The 1996 account.

(c) Within each account specified in subsection (b), the board of the Indiana state teachers' retirement fund shall maintain the following separate subaccounts:

(1) The annuity savings account.

(2) The retirement allowance account.

SECTION 7. IC 5-10.2-9-2, AS ADDED BY P.L.149-2007, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. As used in this chapter, "board" refers to the following:

(1) the board of trustees of the Indiana state teachers' retirement fund;

(2) the board of trustees of the public employees' retirement fund; **board of trustees of the Indiana public retirement system established by IC 5-10.5-3-1.**

SECTION 8. IC 5-10.3-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. ~~Board~~: "Board" as used in this article means the board of trustees of the public employees' retirement fund; **Indiana public retirement system established by IC 5-10.5-3-1.**

SECTION 9. IC 5-10.3-1-2.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2.5. As used in this

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1 article, "director" refers to the director of the ~~fund~~. **Indiana public**
 2 **retirement system established by IC 5-10.5-2-1.**

3 SECTION 10. IC 5-10.3-2-1 IS AMENDED TO READ AS
 4 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. ~~Establishment of~~
 5 ~~Fund and Board~~. (a) The public employees' retirement fund of Indiana,
 6 referred to as the fund, is established to pay benefits to officers and
 7 employees of the state and its political subdivisions after specified
 8 years of service and under other specified circumstances. The purpose
 9 of the fund is to promote economy and efficiency in the administration
 10 of state and local government by providing an orderly way for members
 11 to be retired without prejudice and without inflicting hardship on the
 12 retired member.

13 (b) The fund is a trust. The board of trustees of the ~~public~~
 14 ~~employees' retirement fund referred to as the board~~, **Indiana public**
 15 **retirement system** shall administer the fund and implement this
 16 article, without the supervision of the department of insurance.

17 SECTION 11. IC 5-10.3-3-7 IS AMENDED TO READ AS
 18 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. The board shall do
 19 all of the following:

- 20 (1) Appoint ~~and fix the salary of~~ a director. ~~subject to the~~
 21 ~~approval of the governor.~~
- 22 (2) Appoint an actuary and employ or contract with employees,
 23 auditors, technical experts, legal counsel, and other service
 24 providers as it considers necessary to transact the business of the
 25 fund, without the approval of any state officer.
- 26 (3) Fix the compensation of persons:
 27 (A) appointed or employed by the board; or
 28 (B) who contract with the board.
- 29 (4) Establish a general office in Indianapolis for board meetings
 30 and for administrative personnel.
- 31 (5) Provide for the installation in the general office of a complete
 32 system of books, accounts including reserve accounts, and records
 33 in order to give effect to all the requirements of this article and to
 34 assure the proper operation of the fund.
- 35 (6) Provide for a report at least annually, before June 1, to each
 36 member of the amount credited to him in the annuity savings
 37 account in each investment program under IC 5-10.2-2.
- 38 (7) With the advice of the actuary, adopt actuarial tables and
 39 compile data needed for actuarial studies which are necessary for
 40 the fund's operation.
- 41 (8) Act on applications for benefits and claims of error filed by
 42 members.

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(9) Have the accounts of the fund audited annually by the state board of accounts, **and if the board determines that it is advisable, have the operation of a public pension or retirement fund of the system audited by a certified public accounting firm.**

(10) Publish for the members a synopsis of the fund's condition.

(11) Adopt a budget on a calendar year or fiscal year basis that is sufficient, as determined by the board, to perform the board's duties and, as appropriate and reasonable, draw upon fund assets to fund the budget.

(12) Expend money, including income from the fund's investments, for effectuating the fund's purposes.

(13) Establish personnel programs and policies for its employees.

(14) Submit a report of its activities each year **before November 1** to the governor, the pension management oversight commission, and the budget committee. ~~before November 1 of each year. The report to the pension management oversight commission must be submitted in an electronic format under IC 5-14-6.~~ The report under this subdivision must set forth a complete operating and financial statement covering its operations during the most recent **available audited** fiscal year, including information on the following:

(A) Investment performance.

(B) Investment and administrative costs as a percentage of assets under management.

(C) Investment asset allocation strategy.

(D) Member services.

(E) Member communications.

(15) Establish a code of ethics or decide to be under the jurisdiction and rules adopted by the state ethics commission.

(16) Submit to the auditor or treasurer vouchers or reports necessary to claim amounts due from the state to a public pension or retirement fund of the system administered by the board.

SECTION 12. IC 5-10.3-3-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. (a) The board may do any of the following:

(1) Establish and amend rules and regulations:

(A) for the administration and regulation of the fund and the board's affairs; and

(B) to effectuate the powers and purposes of the board; without adopting a rule under IC 4-22-2.

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(2) Make contracts and sue and be sued as the board of trustees of the ~~public employees' retirement fund of Indiana~~. **Indiana public retirement system.**

(3) Delegate duties to its employees.

(4) Enter into agreements with one (1) or more insurance companies to provide life, hospitalization, surgical, medical, dental, vision, long term care, or supplemental Medicare insurance, utilizing individual or group insurance policies for retired members of the fund, and, upon authorization of the respective member, deduct premium payments for such policies from the members' retirement benefits and remit the payments to the insurance companies.

(5) Enter into agreements with one (1) or more insurance companies to provide annuities for retired members of the fund, and, upon a member's authorization, transfer the amount credited to the member in the annuity savings account to the insurance companies.

(6) For the 1977 police officers' and firefighters' pension and disability fund, deduct from benefits paid and remit to the appropriate entities amounts authorized by IC 36-8-8-17.2.

(7) Whenever the fund's membership is sufficiently large for actuarial valuation, establish an employer's contribution rate for all employers, including employers with special benefit provisions for certain employees.

(8) Amortize prior service liability over a period of forty (40) years or less.

(9) Recover payments made under false or fraudulent representation.

(10) Exercise all powers necessary, convenient, or appropriate to carry out and effectuate its public and corporate purposes and to conduct its business.

(b) An agreement under subsection (a)(4) may be for a duration of three (3) years.

(c) This subsection does not apply to investments of the board. A contract under subsection (a)(2) may be for a term of not more than five (5) years, with an ability to renew thereafter.

(d) The board's powers and the fund's powers specified in this chapter shall be interpreted broadly to effectuate the purposes of this chapter and may not be construed as a limitation of powers.

SECTION 13. IC 5-10.3-3-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 10. ~~The Actuary. The actuary is the technical advisor on the operation of the fund.~~ The

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actuary shall perform the duties specified in this article and in IC 5-10.2 and all other duties assigned by the board.

SECTION 14. IC 5-10.3-5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) Securities shall be held for the fund by banks or trust companies under a custodial agreement. Income, interest, proceeds of sale, materials, redemptions, and all other receipts from securities and other investments which the board retains for the cash working balance shall be deposited ~~with the treasurer of state~~ **as authorized by the board**.

(b) The board may contract with investment counsel, trust companies, or banks to assist the board in its investment program.

SECTION 15. IC 5-10.3-11-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. There is created within the public employees' retirement fund a separate account known as the pension relief fund. This fund is administered by the board of trustees of the ~~public employees' retirement fund~~ **Indiana public retirement system**, referred to as the "state board" in this chapter. The pension relief fund consists of revenues received under IC 6-7-1-28.1(4), IC 7.1-4-12-1, any appropriations to the fund, and earnings on these revenues.

SECTION 16. IC 5-10.4-1-5, AS ADDED BY P.L.2-2006, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. "Board" refers to the board of trustees of the ~~Indiana state teachers' retirement fund~~ **Indiana public retirement system established by IC 5-10.5-3-1**.

SECTION 17. IC 5-10.4-3-6, AS ADDED BY P.L.2-2006, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. (a) A trustee shall give bond as specified periodically by the state board of finance.

(b) The board shall do all the following:

- (1) Act on an application for benefits.
- (2) Provide the necessary forms for administering the fund.
- (3) Establish records and accounts, which:
 - (A) provide the necessary information for an actuary's examination; and
 - (B) are sanctioned by the state board of accounts.
- (4) Maintain individual records for each member containing the member's:
 - (A) name;
 - (B) date of birth;
 - (C) age at beginning service;
 - (D) service record;

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- 1 (E) address;
- 2 (F) contributions to the fund;
- 3 (G) amounts withdrawn; and
- 4 (H) benefits paid;
- 5 and other items considered necessary.
- 6 (5) Employ or contract with employees, auditors, technical
- 7 experts, legal counsel, and other service providers as the board
- 8 considers necessary to transact the business of the fund without
- 9 the approval of any state officer, and fix the compensation of
- 10 those persons.
- 11 (6) Make rules as required to administer the fund.
- 12 (7) Publish a summary of the fund's condition.
- 13 (8) Provide for a report for each member, at least annually before
- 14 June 1, of the value of the amount credited to the member in the
- 15 annuity savings account in each investment program under
- 16 IC 5-10.2-2.
- 17 (9) Provide for the installation in the general office of a complete
- 18 system of:
- 19 (A) books;
- 20 (B) accounts, including reserve accounts; and
- 21 (C) records;
- 22 to give effect to all the requirements of this article and to ensure
- 23 the proper operation of the fund.
- 24 (10) Appoint an actuary.
- 25 (11) With the advice of the actuary, adopt actuarial tables and
- 26 compile data needed for actuarial studies necessary for the fund's
- 27 operation.
- 28 (12) Adopt a budget on a calendar year or fiscal year basis that is
- 29 sufficient, as determined by the board, to perform the board's
- 30 duties and, as appropriate and reasonable, draw upon fund assets
- 31 to fund the budget.
- 32 (13) Expend money, including income from the fund's
- 33 investments, for effectuating the fund's purposes.
- 34 (14) Establish personnel programs and policies for the employees
- 35 of the board.
- 36 (15) Submit a report of the board's activities to the governor, the
- 37 pension management oversight commission, and the budget
- 38 committee before November 1 of each year. **The report to the**
- 39 **pension management oversight commission must be submitted**
- 40 **in an electronic format under IC 5-14-6.** The report under this
- 41 subdivision shall set forth a complete operating and financial
- 42 statement covering the board's operations during the most recent

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1 **available audited** fiscal year, including information on the
2 following:

3 (A) Investment performance.

4 (B) Investment and administrative costs as a percentage of
5 assets under management.

6 (C) Investment asset allocation strategy.

7 (D) Member services.

8 (E) Member communications.

9 (16) Establish a code of ethics or decide to be under the
10 jurisdiction and rules adopted by the state ethics commission.

11 SECTION 18. IC 5-10.4-3-8, AS ADDED BY P.L.2-2006,
12 SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
13 JULY 1, 2009]: Sec. 8. (a) The board may do the following:

14 (1) **Without adopting a rule under IC 4-22-2**, adopt and enforce
15 rules regarding the fund's administration and the control and
16 investment of the fund.

17 (2) Give bond for an employee for the fund's protection.

18 (3) Receive the state's share of the cost of the pension
19 contribution from the federal government for a member on leave
20 of absence in order to work in a federally supported educational
21 project.

22 (4) Sue and be sued as the board of trustees of the Indiana ~~state~~
23 ~~teachers' retirement fund~~ **public retirement system**.

24 (5) Summon and examine witnesses when adjusting claims.

25 (6) When adjusting disability claims, require medical
26 examinations by doctors approved or appointed by the board. Not
27 more than two (2) examinations may be conducted in one (1)
28 year.

29 (7) Conduct investigations to help determine the merit of a claim.

30 (8) Meet an emergency that may arise in the administration of the
31 board's trust.

32 (9) Determine other matters regarding the board's trust that are
33 not specified.

34 (10) Enter into agreements with an insurance company to provide
35 life, hospitalization, surgical, medical, dental, vision, long term
36 care, or supplemental Medicare insurance, using individual or
37 group insurance policies for retired teachers, and deduct premium
38 payments for the policies from the teachers' retirement benefits
39 and remit the payments to the insurance companies when
40 deduction is authorized by the respective retired teacher.

41 (11) Enter into agreements with one (1) or more insurance
42 companies to provide annuities for retired teachers and upon a

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member's authorization transfer the amount credited to the member in the annuity savings account to the insurance companies.

(12) Exercise all powers necessary, convenient, or appropriate to carry out and effectuate the board's public and corporate purposes and to conduct the board's business.

(13) Establish and amend rules:

(A) for the administration and regulation of the fund and the board's affairs; and

(B) to effectuate the powers and purposes of the board; without adopting a rule under IC 4-22-2.

(b) An agreement under subsection (a)(10) may be for a duration of three (3) years.

(c) This subsection does not apply to:

(1) an agreement under subsection (a)(10); or

(2) investments of the board.

A contract that the board enters into under section 10(b) of this chapter or any other provision may be for a term of not more than five (5) years, with the ability to renew.

(d) The board's powers and the fund's powers specified in this chapter shall be interpreted broadly to effectuate the purposes of this chapter and may not be construed as a limitation of powers.

SECTION 19. IC 5-10.4-3-9, AS ADDED BY P.L.2-2006, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9. (a) The board is responsible for the fund's property. The board may take and hold any property given outright or on condition to the fund and shall perform the conditions accepted. Unless restricted by a condition, the board may transfer the property when necessary for the fund's benefit.

(b) The board shall receipt:

(1) property belonging to or coming into the fund and shall judiciously invest the property; and

(2) money coming into the fund and, except as specified in sections 13 and 14 of this chapter, shall deposit the money with the state treasurer in the manner required of other state funds by IC 5-13: as authorized by the board.

(c) The board shall make quarterly reports to the auditor of state as required by law for the transference of the fund to the auditor of state's books.

(d) (c) The board shall direct the fund's disbursements on itemized vouchers to the auditor of state approved by the president of the board and the director or, in the absence or incapacity of both officers, by

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1 another trustee directed by order of the board. ~~The auditor of state then~~
 2 ~~shall issue a warrant on the treasurer of state.~~

3 SECTION 20. IC 5-10.4-3-14, AS ADDED BY P.L.2-2006,
 4 SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 5 JULY 1, 2009]: Sec. 14. All income and other receipts from securities
 6 may be:

7 (1) collected by the custodian bank or safekeeping bank approved
 8 for that purpose by the board and deposited in the custodial
 9 account or a checking account of the board;

10 (2) reinvested from the custodial account or checking account
 11 when the board determines that the receipts may be safely
 12 invested; or

13 (3) withdrawn by the board for the immediate needs of the fund
 14 from the checking account or custodial account. ~~and then~~
 15 ~~deposited with the treasurer of state, as required for other money~~
 16 ~~coming into the fund.~~

17 SECTION 21. IC 5-10.5 IS ADDED TO THE INDIANA CODE AS
 18 A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,
 19 2009]:

20 **ARTICLE 10.5. INDIANA PUBLIC PENSION**
 21 **MODERNIZATION ACT**

22 **Chapter 1. Definitions**

23 **Sec. 1. The definitions in this chapter apply throughout this**
 24 **article.**

25 **Sec. 2. "Board" refers to the board of trustees of the system**
 26 **established by IC 5-10.5-3-1.**

27 **Sec. 3. "Director" refers to the director of the system.**

28 **Sec. 4. "Public employees' retirement system" means the public**
 29 **employees' retirement fund established under IC 5-10.2 and**
 30 **IC 5-10.3.**

31 **Sec. 5. "Public pension and retirement funds of the system"**
 32 **means the public pension and retirement funds listed in**
 33 **IC 5-10.5-2-2.**

34 **Sec. 6. "System" refers to the Indiana public retirement system**
 35 **established by IC 5-10.5-2-1.**

36 **Sec. 7. "Teachers' retirement fund" means the Indiana state**
 37 **teachers' retirement fund established under IC 5-10.2 and**
 38 **IC 5-10.4.**

39 **Chapter 2. Indiana Public Retirement System**

40 **Sec. 1. On August 1, 2009, the Indiana public retirement system**
 41 **is established.**

42 **Sec. 2. The system consists of the following public pension or**

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retirement funds:

(1) The public employees' retirement fund established under IC 5-10.2 and IC 5-10.3.

(2) The Indiana state teachers' retirement fund established under IC 5-10.2 and IC 5-10.4.

(3) The Indiana judges' retirement fund established under IC 33-38-6.

(4) The prosecuting attorneys retirement fund established under IC 33-39-7.

(5) The state excise police, gaming agent, gaming control officer, and conservation enforcement officers' retirement fund established under IC 5-10-5.5.

(6) The 1977 police officers' and firefighters' pension and disability fund established under IC 36-8-8.

(7) The legislators' retirement system established under IC 2-3.5.

(8) The pension relief fund established under IC 5-10.3-11.

(9) The special death benefit fund established under IC 5-10-10.

(10) The state employees' death benefit fund established under IC 5-10-11.

Sec. 3. The system is an independent body corporate and politic. The system is not a department or agency of the state but is an independent instrumentality exercising essential government functions.

Sec. 4. For purposes of IC 34-13-2, IC 34-13-3, and IC 34-13-4, the board, the system, and all employees of the board or the system are public employees (as defined in IC 34-6-2-38).

Sec. 5. The system shall be managed and administered by a board of trustees established under IC 5-10.5-3.

Sec. 6. Each public pension or retirement fund listed in section 2 of this chapter is a separate fund managed by the board under this article and the retirement law applicable to the public pension or retirement fund. The obligations of the state and political subdivisions for benefit payments are specified in the retirement law applicable to each public pension or retirement fund.

Chapter 3. Board of Trustees

Sec. 1. (a) The board of trustees of the Indiana public retirement system is established.

(b) The board shall manage and administer each public pension or retirement fund that comprises the system in accordance with:

(1) this article; and

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(2) the retirement law applicable to the public pension or retirement fund.

Sec. 2. (a) The board is composed of seven (7) trustees.

(b) The governor shall appoint six (6) of the trustees, as follows:

(1) At least one (1) of the trustees must be an active member of the public employees' retirement fund with at least ten (10) years of creditable service.

(2) At least one (1) of the trustees must be:

(A) an active or retired member of a public pension or retirement fund administered by the board, other than the public employees' retirement fund or the teachers' retirement fund; or

(B) an Indiana resident who is an officer or a member of a local, national, or international labor union that represents members of a public pension or retirement fund administered by the board.

(3) At least two (2) of the trustees must be active or retired members of the teachers' retirement fund.

(4) Not more than four (4) trustees may be members of the same political party.

(c) The director of the budget agency or the director's designee is an ex officio voting member of the board. An individual appointed under this subsection to serve as the director's designee serves as a permanent designee until the individual is replaced by the director of the budget agency.

(d) The governor shall fill a vacancy on the board by appointment not later than forty-five (45) days after the date the vacancy occurs.

Sec. 3. (a) A trustee shall serve a term of four (4) years, beginning on August 1 following the trustee's appointment.

(b) Whenever a trustee is appointed to fill a vacancy caused by death or resignation, the trustee shall serve the unexpired term of the trustee's predecessor.

(c) A trustee shall serve until the trustee's successor is appointed and qualified.

Sec. 4. (a) Notwithstanding section 3(a) of this chapter, the initial terms of office for the six (6) individuals appointed to the board under section 2(b) of this chapter are as follows:

(1) Two (2) trustees for a term of two (2) years.

(2) Two (2) trustees for a term of three (3) years.

(3) Two (2) trustees for a term of four (4) years.

(b) The initial terms of office for the individuals appointed

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under subsection (a) begin August 1, 2009. When making the appointments to the board under subsection (a), the governor shall specify the initial term of each trustee appointed.

(c) The governor shall appoint to initial terms of office under subsection (a) at least three (3) individuals who, on July 31, 2009, are serving as trustees of a public pension or retirement fund that, on August 1, 2009, becomes part of the system administered by the board.

(d) This section expires August 1, 2013.

Sec. 5. (a) Each trustee shall take an oath of office. The oath must be:

- (1) subscribed to by the trustee making the oath;
- (2) certified by the officer before whom the trustee takes the oath; and
- (3) filed with the secretary of state.

(b) A trustee is qualified for membership on the board when the trustee's oath is filed with the secretary of state.

Sec. 6. (a) Each trustee is entitled to reimbursement for necessary expenses actually incurred through service on the board.

(b) Trustee expenses shall be paid from resources available to the board for that purpose.

Sec. 7. (a) Not later than September 30 each year, the board shall elect a chair and vice chair from its members to serve as the officers of the board.

(b) An officer shall serve for one (1) year or until the officer's successor is elected and qualified.

Sec. 8. (a) The board shall hold:

- (1) an annual meeting in September each year; and
- (2) regular meetings at least quarterly.

(b) The board may hold special meetings:

- (1) at the call of the chair; or
- (2) with a written request signed by at least four (4) trustees.

(c) The board may hold its meetings at the system's general offices or at any other place in the state that the board designates.

(d) All meetings must be open to the public in accordance with IC 5-14-1.5.

(e) The board shall keep a record of its proceedings.

Sec. 9. (a) This section applies to any meeting of the board.

(b) A member of the board may participate in a meeting of the board using any means of communication that permits:

- (1) all other board members participating in the meeting; and
- (2) all members of the public physically present at the place

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1 where the meeting is conducted;
 2 to simultaneously communicate with each other during the
 3 meeting.

4 (c) A member of the board who participates in a meeting under
 5 subsection (b) is considered to be present at the meeting.

6 (d) The memorandum of the meeting prepared under
 7 IC 5-14-1.5-4 must also state the name of each member who:

8 (1) was physically present at the place where the meeting was
 9 conducted;

10 (2) participated in the meeting using a means of
 11 communication described in subsection (b); and

12 (3) was absent.

13 Sec. 10. (a) Five (5) trustees constitute a quorum for the
 14 transaction of business.

15 (b) Each trustee is entitled to one (1) vote.

16 (c) A majority vote of the trustees appointed to the board is
 17 required for the board to adopt a resolution or take other action at
 18 a regular or special meeting.

19 Chapter 4. Board Powers and Duties

20 Sec. 1. The board shall have the powers and duties formerly
 21 exercised by:

22 (1) the board of directors of the public employee's retirement
 23 fund under IC 5-10.3-3-7; and

24 (2) the board of directors of the teachers' retirement fund
 25 under IC 5-10.4-3-6.

26 Sec. 2. The board may exercise any of the powers or perform
 27 any of the duties formerly exercised by:

28 (1) the board of directors of the public employee's retirement
 29 fund under IC 5-10.3-3-8; and

30 (2) the board of directors of the teachers' retirement fund
 31 under IC 5-10.4-3-8.

32 Sec. 3. The board's powers as specified in this article or the
 33 retirement law applicable to a public pension or retirement fund
 34 of the system:

35 (1) shall be interpreted broadly to accomplish the purposes of
 36 this article or the applicable retirement law; and

37 (2) may not be construed as a limitation of powers.

38 Chapter 5. Investments

39 Sec. 1. The board shall have the powers, duties, restrictions,
 40 limitations, and penalties in connection with the board's investment
 41 and management of the assets of the public pension and retirement
 42 funds of the system under the following provisions:

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- 1 (1) IC 5-10.2-2-2.5.
- 2 (2) IC 5-10.2-2-13.
- 3 (3) IC 5-10.2-2-18.
- 4 (4) IC 5-10.3-3-7.1.
- 5 (5) IC 5-10.3-5-3.
- 6 (6) IC 5-10.3-5-3.1.
- 7 (7) IC 5-10.3-5-4.
- 8 (8) IC 5-10.3-5-5.
- 9 (9) IC 5-10.3-5-6.
- 10 (10) IC 5-10.4-3-7.
- 11 (11) IC 5-10.4-3-9.
- 12 (12) IC 5-10.4-3-10.
- 13 (13) IC 5-10.4-3-11.
- 14 (14) IC 5-10.4-3-12.
- 15 (15) IC 5-10.4-3-13.
- 16 (16) IC 5-10.4-3-14.
- 17 (17) IC 5-10.4-3-15.
- 18 (18) IC 5-10.4-3-16.

19 **Sec. 2. The board's transactions under this chapter are subject**
 20 **to IC 2-3.5-3-3, IC 5-10-5.5-2.5, IC 5-10.2-2-1.5, IC 33-38-6-13,**
 21 **IC 33-39-7-22, and IC 36-8-8-2.5.**

22 **Chapter 6. Director; Reports and Administration**

23 **Sec. 1. (a) The director is the executive officer of the system and**
 24 **is responsible for the administration of the system.**

25 **(b) The director is appointed by and serves at the pleasure of the**
 26 **board.**

27 **Sec. 2. The director shall do the following:**

- 28 **(1) Maintain a record of the board's proceedings.**
- 29 **(2) Keep the books and records of the system.**
- 30 **(3) Deposit payments made to the system with the custodian**
 31 **for the system's accounts.**
- 32 **(4) Sign vouchers for the payment of money from the system**
 33 **as authorized by the board.**
- 34 **(5) Execute a corporate surety bond in an amount specified by**
 35 **the board. The premium for the bond is an administrative**
 36 **expense of the system.**
- 37 **(6) Perform other duties as assigned by the board.**

38 **Sec. 3. (a) The board shall maintain individual records for each**
 39 **member of a public pension or retirement fund of the system**
 40 **administered by the board.**

41 **(b) A member's record must include at least the following**
 42 **information:**



- (1) The member's name.
- (2) Date of birth.
- (3) Age at beginning service.
- (4) Service record.
- (5) Address.
- (6) Contributions.
- (7) Amounts withdrawn.
- (8) Benefits paid.

Sec. 4. (a) Records of:

- (1) individual members of; and
- (2) membership information concerning;

a public pension or retirement fund administered by the board are confidential, except for the name and years of service of a member.

(b) This section does not prohibit the board from providing fund records to an association described in IC 2-3.5-4-12, IC 2-3.5-5-10, IC 5-10.3-8-10, IC 5-10.4-5-14, or IC 36-8-8-17.2.

Sec. 5. (a) Each public pension and retirement fund of the system shall pay the expenses of administration attributable to that public pension or retirement fund.

(b) The board shall:

- (1) prorate the expenses of administration of the system that cannot be attributed to a particular public pension or retirement fund and the bond of the director among; and
- (2) pay the prorated expenses from;

the public pension and retirement funds of the system.

Chapter 7. Short Title and Saving Provisions

Sec. 1. This article shall be known as and may be cited as the Indiana public pension modernization act.

Sec. 2. (a) All powers, duties, liabilities, property, equipment, records, rights, and contracts of the:

- (1) board of trustees of the public employees' retirement fund; and
- (2) board of trustees of the teachers' retirement fund;

are transferred to or assumed by the board on August 1, 2009.

(b) The board shall provide indemnification of:

- (1) the board of trustees of the public employees' retirement fund; and
- (2) the board of trustees of the teachers' retirement fund;

as necessary or appropriate in regard to any liabilities of the public employees' retirement fund or the teachers' retirement fund assumed by the board.

Sec. 3. Any amounts transferred under this subsection to the

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1 system that represent balances in any fund or account of the public
 2 employees' retirement fund or the teachers' retirement fund for the
 3 administration of the public pension and retirement funds
 4 administered by the public employees' retirement fund or the
 5 teachers' retirement fund before August 1, 2009, including any
 6 related services, shall be:

- 7 (1) deposited in a fund or account designed by the board; and
- 8 (2) used by the system for the administration of the public
 9 pension and retirement funds of the system and related
 10 services.

11 **Sec. 4. The employees of the:**

- 12 (1) public employees' retirement fund; and
- 13 (2) teachers' retirement fund;

14 become employees of the system on August 1, 2009, without change
 15 in compensation, seniority, or benefits. An employee who is a
 16 member of the public employees' retirement fund before August 1,
 17 2009, remains a member of the public employees' retirement fund
 18 after July 31, 2009. An employee who is a member of the teachers'
 19 retirement fund before August 1, 2009, remains a member of the
 20 teachers' retirement fund after July 31, 2009.

21 **Sec. 5. Rules and regulations of:**

- 22 (1) the public employees' retirement fund; and
- 23 (2) the teachers' retirement fund;

24 in effect before August 1, 2009, are considered, after July 31, 2009,
 25 rules and regulations of the system.

26 **Sec. 6. (a) Any reference or cross-reference to:**

- 27 (1) the board of trustees of the public employees' retirement
 28 fund; or
- 29 (2) the board of trustees of the teachers' retirement fund;

30 in the Indiana Code shall be treated after July 31, 2009, as a
 31 reference or cross-reference to the board.

32 **(b) Any reference or cross-reference to:**

- 33 (1) the director of the public employees' retirement fund; or
- 34 (2) the director of the teachers' retirement fund;

35 in the Indiana Code shall be treated after July 31, 2009, as a
 36 reference or cross-reference to the director.

37 **Sec. 7. If any provision in this article conflicts with a provision**
 38 **in IC 5-10.2, IC 5-10.3, or IC 5-10.4, the provisions shall be read**
 39 **together to the extent possible with any conflict resolved in favor**
 40 **of the provision in this article.**

41 **SECTION 22. IC 33-38-6-2 IS AMENDED TO READ AS**
 42 **FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. As used in this**

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chapter, "board" refers to the board of trustees of the ~~public employees' retirement fund~~. **Indiana public retirement system established by IC 5-10.5-3-1.**

SECTION 23. IC 33-38-7-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. As used in this chapter, "board" refers to the board of trustees of the ~~public employees' retirement fund~~. **Indiana public retirement system established by IC 5-10.5-3-1.**

SECTION 24. IC 33-38-8-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. As used in this chapter, "board" refers to the board of trustees of the ~~public employees' retirement fund~~. **Indiana public retirement system established by IC 5-10.5-3-1.**

SECTION 25. IC 33-39-7-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. As used in this chapter, "board" refers to the board of trustees of the ~~public employees' retirement fund~~. **Indiana public retirement system established by IC 5-10.5-3-1.**

SECTION 26. IC 36-8-8-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) There is established a police officers' and firefighters' pension and disability fund to be known as the 1977 fund. The 1977 fund consists of fund member and employer contributions, plus the earnings on them, to be used to make benefit payments to fund members and their survivors in the amounts and under the conditions specified in this chapter.

(b) The board of trustees of the ~~public employees' retirement fund~~ (referred to in this chapter as the "PERF board") **Indiana public retirement system (referred to in this chapter as the "system board")** shall administer the 1977 fund, which may be commingled with the public employees' retirement fund for investment purposes. All actuarial data shall be computed on the total membership of the fund, and the cost of participation is the same for all employers in the fund. The fund member and employer contributions shall be recorded separately for each employer.

(c) The 1977 fund advisory committee, referred to as the committee, is established. The **PERF system** board shall consult with the committee on matters pertaining to the administration of this chapter and IC 5-10.3-11. The committee shall consist of the following members appointed by the governor every two (2) years for a term of two (2) years:

(1) Two (2) firefighters:

(A) each of whom must be an active or retired member of the

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- 1 1937 fund or the 1977 fund; and
 2 (B) neither of whom may be in an upper level policymaking
 3 position.
 4 (2) Two (2) police officers:
 5 (A) each of whom must be an active or retired member of the
 6 1925 fund, the 1953 fund, or the 1977 fund; and
 7 (B) neither of whom may be in an upper level policymaking
 8 position.
 9 (3) Two (2) members, each of whom must be an executive of an
 10 employer.
 11 (4) Two (2) members, each of whom must be a member of the
 12 legislative body of an employer.
 13 The term of each member begins on July 1 following appointment and
 14 continues until ~~his~~ **the member's** successor is qualified. A member of
 15 the committee who no longer holds the position that qualified ~~him~~ **the**
 16 **member** for appointment under subdivision (1), (2), (3), or (4) forfeits
 17 ~~his~~ **the member's** membership on the committee. The governor shall
 18 appoint a person to fill a vacancy on the committee for the remainder
 19 of the unexpired term.
 20 (d) Each member of the committee who is not a state employee is
 21 entitled to reimbursement for expenses actually incurred in connection
 22 with the member's duties. Such a member is also entitled to
 23 reimbursement for traveling expenses and other expenses actually
 24 incurred in connection with the member's duties, as approved by the
 25 **PERF system** board.
 26 SECTION 27. THE FOLLOWING ARE REPEALED [EFFECTIVE
 27 JULY 1, 2009]: IC 2-3.5-2-9; IC 2-3.5-2-13; IC 5-10.2-2-16;
 28 IC 5-10.2-2-17; IC 5-10.3-3-1; IC 5-10.3-3-2; IC 5-10.3-3-3;
 29 IC 5-10.3-3-4; IC 5-10.3-3-5; IC 5-10.3-3-6; IC 5-10.3-3-9;
 30 IC 5-10.3-4-1; IC 5-10.3-4-2; IC 5-10.3-9-5; IC 5-10.4-3-1;
 31 IC 5-10.4-3-2; IC 5-10.4-3-3; IC 5-10.4-3-4; IC 5-10.4-3-5.
 32 SECTION 28. [EFFECTIVE JULY 1, 2009] (a) **As used in this**
 33 **SECTION, "PERF board" refers to the board of trustees of the**
 34 **public employees' retirement fund established under IC 5-10.3-3-1**
 35 **(before its repeal by this act).**
 36 (b) **As used in this SECTION, "PERF director" refers to the**
 37 **director of the public employees retirement fund whose duties are**
 38 **described in IC 5-10.3-3-9 (before its repeal by this act).**
 39 (c) **As used in this SECTION, "system board" refers to the**
 40 **board of trustees of the Indiana public retirement system**
 41 **established by IC 5-10.5-3-1, as added by this act.**
 42 (d) **As used in this SECTION, "system director" refers to the**

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1 director of the Indiana public retirement system appointed under
2 IC 5-10.5-6-1, as added by this act.

3 (e) As used in this SECTION, "TRF board" refers to the board
4 of trustees of the Indiana state teachers' retirement fund
5 established under IC 5-10.4-3-1 (before its repeal by this act).

6 (f) As used in this SECTION, "TRF director" refers to the
7 director of the Indiana state teachers' retirement fund appointed
8 under IC 5-10.4-3-5 (before its repeal by this act).

9 (g) Notwithstanding the duties assigned to the system board by
10 IC 5-10-5.5-3, IC 5-10.2-1-1, IC 5-10.2-2-2, IC 5-10.2-9-2,
11 IC 5-10.3-1-1, IC 5-10.3-2-1, IC 5-10.3-11-1, IC 5-10.4-1-5,
12 IC 33-38-6-2, IC 33-38-7-3, IC 33-38-8-3, IC 33-39-7-3, and
13 IC 36-8-8-4, all as amended by this act, and IC 2-3.5-2-2.7 and
14 IC 5-10.5, both as added by this act, the PERF board and TRF
15 board shall continue to perform the duties assigned by:

16 (1) IC 5-10-5.5-3, IC 5-10.2-1-1, IC 5-10.2-2-2, IC 5-10.2-9-2,
17 IC 5-10.3-1-1, IC 5-10.3-2-1, IC 5-10.3-11-1, IC 5-10.4-1-5,
18 IC 33-38-6-2, IC 33-38-7-3, IC 33-38-8-3, IC 33-39-7-3, and
19 IC 36-8-8-4 (before their amendment by this act); and

20 (2) IC 2-3.5-2-9, IC 2-3.5-2-13, IC 5-10.2-2-16, IC 5-10.2-2-17,
21 IC 5-10.3-3-1, IC 5-10.3-3-2, IC 5-10.3-3-3, IC 5-10.3-3-4,
22 IC 5-10.3-3-5, IC 5-10.3-3-6, IC 5-10.3-9-5, IC 5-10.4-3-1,
23 IC 5-10.4-3-2, IC 5-10.4-3-3, and IC 5-10.4-3-4 (before their
24 repeal by this act);

25 during the period after June 30, 2009, and before August 1, 2009.

26 (h) Notwithstanding the duties assigned to the system director
27 by IC 5-10.3-1-2.5, as amended by this act, and IC 5-10.5, as added
28 by this act, the PERF director and the TRF director shall continue
29 to perform the duties assigned by:

30 (1) IC 5-10.3-1-2.5 (before its amendment by this act); and

31 (2) IC 5-10.3-3-9 and IC 5-10.4-3-5 (before their repeal by this
32 act);

33 during the period after June 30, 2009, and before August 1, 2009.

34 (i) This SECTION expires June 30, 2010.

35 SECTION 29. [EFFECTIVE JULY 1, 2009] (a) The legislative
36 services agency shall prepare legislation for introduction in the
37 2010 regular session of the general assembly to organize and
38 correct statutes affected by this act.

39 (b) This SECTION expires June 30, 2010.

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